

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DEVIN G. NUNES	:	
	:	
Plaintiff,	:	
	:	
v.	:	<u>Case 1:22-cv-01633-PKC</u>
	:	
NBCUNIVERSAL MEDIA, LLC.	:	
	:	
Defendant.	:	
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**PLAINTIFF’S OBJECTIONS, ANSWERS AND RESPONSES  
TO DEFENDANT’S DISCOVERY REQUESTS**

Plaintiff, Devin G. Nunes (“Plaintiff”), by counsel, pursuant to Rules 26, 33 and 34 of the Federal Rules of Civil Procedure and the Federal Rules of Evidence (“FRE”), hereby notes and preserves the following Objections and serves the following Answers and Responses to defendant, NBCUniversal Media, LLC’s (“MSNBC”) second request for production of documents dated March 30, 2023 (the “Discovery Requests”).

**General Objections**

1. Plaintiff objects to the Discovery Requests on the ground and to the extent that the Discovery Requests exceed the scope of discovery permitted under Rules 26 and 34 of the Federal Rules of Civil Procedure (the “Rules”).

2. Plaintiff objects to the Discovery Requests on the ground and to the extent that the Discovery Requests seek the production and/or disclosure of information protected by the attorney-client privilege and/or work-product doctrines. Subject to and without waiving the privilege as to any document, Plaintiff represents that the only

information and documents being withheld are communications between Plaintiff and legal counsel in this action (Mr. Biss and Mr. Carlini), documents prepared in anticipation of this litigation, and work-product of Plaintiff's legal counsel. The privileged materials consist almost entirely of email communications between Plaintiff and his legal counsel and legal analysis of claims and defenses prepared by counsel. Plaintiff does not intend to produce a privilege log as to these documents. Any other claim of privilege or protection of trial-preparation materials will be expressly made in accordance with Rule 26(b)(5).

3. Plaintiff objects to the Discovery Requests on the ground and to the extent that the Discovery Requests seek the production and/or disclosure of confidential information and sensitive personal, business and/or financial information and material that is not generally known to the public and that is the subject of efforts by Plaintiff that are reasonable under the circumstances to maintain the confidentiality of such material. Plaintiff will produce all "CONFIDENTIAL" and/or "COUNSEL'S EYES ONLY" information in accordance with the terms and conditions of the Stipulated Protective Order or as ordered by the Court or agreed to by the parties.

4. Plaintiff objects to the Discovery Requests on the ground and to the extent that the Discovery Requests seek to elicit inadmissible opinion evidence and/or hearsay or call for Plaintiff to speculate or are duplicative.

5. Plaintiff objects to the Discovery Requests on the ground and to the extent that the information requested is not in Plaintiff's possession or control, but is in the possession and control of others.

6. Plaintiff objects to the Discovery Requests (including the definitions and instructions that accompany the Discovery Requests) on the ground that the Discovery Requests are vague, confusing, argumentative, overly broad, unduly burdensome and not proportional to the needs of the case.

7. Plaintiffs object to the Discovery Requests to the extent that the Discovery Requests require Plaintiff to create documents for the Plaintiff or to take action not required by Rules 26 and 34 of the Federal Rules of Civil Procedure.

**Responses to Second Request for Production of Documents**

As to each and every document produced by Plaintiff in discovery, Plaintiff notes and preserves the following objections: Completeness (FRE 106); Relevance (FRE 402); Prejudice (FRE 403); Privilege (attorney-client and work-product); (FRE 501-502); Lack of Foundation/Knowledge (FRE 602); Inadmissible Opinion (FRE 701); Hearsay (FRE 802); and Authenticity (FRE 901).

Subject to the foregoing objections, Plaintiff will produce all responsive documents in his possession and control as follows:<sup>1</sup>

<p>1. All Documents reflecting if and when You or any individuals who served as staff members or employees of Your Congressional office viewed the Broadcast either via the MSNBC linear channel or on the Internet.</p>
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**RESPONSE:** Plaintiff has no documents. Plaintiff cannot speak for any individual who served as a staff member or employee of his Congressional office.

<p>2. All Documents and Communications sufficient to show any safety concerns that limited Your ability to make public appearances following the Broadcast.</p>
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**RESPONSE:** The content and threatening tones and themes of the retweets, quote tweets, likes and bookmarks of the Statements on Twitter illustrate why Plaintiff had safety concerns that limited his ability to make public appearances, *see, e.g.:*

<https://twitter.com/GotJanie/status/1372890233524514820>

(“Dude, you’re gonna wish a Twitter cow was the worst of your problems”);

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<sup>1</sup> Defendant’s first request for production of documents contained requests numbered 1 – 36. Instead of continuing the sequence, Defendant’s second discovery request starts against at “1”.

<https://twitter.com/WestergrenJon/status/1372789516533035009>

(“No mistake about it the Republican party is the party of treason We must demand accountability we cannot let this go unpunished it will happen again if we do”);

<https://twitter.com/beth4158/status/1372932682598998017>

(“Tick tock, Dev ...”);

[https://twitter.com/Spot\\_Light\\_On/status/1374873168725204996](https://twitter.com/Spot_Light_On/status/1374873168725204996)

(“@GOP @ChrisHayes @NYT Hey @FoxNews How does it feel that a Congressman regularly on your host’s friend’s list named @DevinNunes, is receiving secret packages from Russian agents? Any working relationships in this Fox Circle? Need Ass Cleaning?”);

<https://twitter.com/EricLisann/status/1373444742835474432>

(“This is important understand, as Democrats screw up their courage to tackle sedition within Congress. While Republicans attack Swalwell, Democrats are not yet pushing to take action [sic] against Nunes, who is subject to expulsion for blocking the investigation into Derkach”);

[https://twitter.com/time\\_for\\_irony/status/1372783227006377989](https://twitter.com/time_for_irony/status/1372783227006377989)

(“The cover up, not the break-in, brought down Nixon. Chase the cover up!”);

[https://twitter.com/pj\\_ramon/status/1372861693731110918](https://twitter.com/pj_ramon/status/1372861693731110918)

(“Republicans are complicit in the Trump/Russia saga and Nunes played a strategic role in keeping the former guy informed of what Dems were doing to untangle the crazy mess. Remember the midnight run Nunes did to give info to the WH when he was head of the Intelligence committee?”);

[https://twitter.com/Nadine\\_Shale/status/1372790110572277760](https://twitter.com/Nadine_Shale/status/1372790110572277760)

(“Please can others who frequently reference Devin Nunes join me in tweeting the name #Derkach at him every day until he leaves or is charged with a crime?

@DevinCow @NunesDrag @NunesTag @DevinGrandma @DevinNunesCow

@DevinNunesDog @DevinNunesSpine @DevinNunesFarm

@DevinNunesDaddy”);

<https://twitter.com/8raredy/status/1372775474288422918>

(“Time for a hearing for Devin Nunes, Russian spy. @SpeakerPelosi”);

<https://twitter.com/ClicksyPics/status/1372922090291130372>

(“McCarthy wants to eject Swalwell from the Intelligence Com. after he \*immediately\* cut ties w/Chinese spy, per FBI. Devin Nunes works w/Russian spy, REFUSES to cooperate w/FBI and turn over info, is probably STILL working with spies, and heads the Intel Coms. WTF GOP?? #Russia”);

[https://twitter.com/Crap\\_Locker/status/1372922906708221957](https://twitter.com/Crap_Locker/status/1372922906708221957)

("I have a one word question related to the Derkach package. Warrant?");

<https://twitter.com/AndreasBoos/status/1372753368045654020>

("[Nunes] Should be ousted. This whole Congress-thing is really not working well. Kind of F-Ed up");

<https://twitter.com/GotchabackJQ/status/1372751711979249664>



<https://twitter.com/DhanoSubick/status/1373011814246670336>

("THEY ALL HAVE VIOLENCE AS THEIR LAST NAME ONE FAMILY");

[https://twitter.com/WSV\\_GUY/status/1372802813269446670](https://twitter.com/WSV_GUY/status/1372802813269446670)

("How is it possible that Nunes' actions (ex: working as foreign agent) aren't illegal and why hasn't he been indicted?");

<https://twitter.com/TrueBluPatriot/status/1372816860312375296>

("What if his security clearance were revoked??? He can't sit on any hearings dealing with anything classified, which is most of what they delve into");

<https://twitter.com/BBurner47/status/1372916519106142211>

("Bcuz Sedition & Treason are features, not bugs in the #GQP ... a Domestic Terror Organization masquerading as a political party");

<https://twitter.com/Cejae17/status/1372762053308391430>

("Something that was suspected, now there is prove [sic]. #DevinNunesIsATraitor. He must be held responsible for his actions to destabilize our #Democracy!");

<https://twitter.com/DeniseLumpkin58/status/1372913501811961856>

("Nunes has never bothered to follow and respect his sworn Plead [sic] to follow our American Constitution. AG Merritt Garland should not allow him to openly break our laws. He must be stopped!!");

<https://twitter.com/ShollerKevin2/status/1372886364635693057>

("Devon Nunes is a traitor to our country and needs to be held accountable for the documents he received from Russia subpoena them question him and lock him up!");

<https://twitter.com/bratacat/status/1372727178975195139>

("Who is protecting Devin Nunes. If I had refused to turn over a package from a known Russian agent I'd be locked up ... why is Nunes still on the Intel committee?");

<https://twitter.com/EricG1247/status/1378059772403023873>

("I can't help but wonder what is inside the secret package Devin Nunes received from a Russian agent. It must have been pretty juicy stuff if Nunes wants to hide it from the FBI");

<https://twitter.com/DevinCow/status/1372723092498288645>

("#DevinNunesIsATraitor").

The comments on MSNBC's YouTube republication of the Broadcast also caused safety concerns, *see, e.g.*:



**Gina M**

2 years ago

How are all these unethical and immoral people in high government positions? Why isn't there a code of ethics these ppl need to be held to? We need to do better



**Susan**

2 years ago

This is not 'nutty stuff.' This is treason. They [sic] DOJ should most definitely be 'knocking on doors.' ASAP



**ALT**

2 years ago

What a bunch of vile liars. They should all be brought to task ASAP. Thank you for the excellent reporting, Rachel.



**Crooked Clown**

2 years ago

Why the FBI is not investigating Devin Nunes?



**HMSMEMAW**

2 years ago

Nunes is a bad egg. He needs to go bye-bye.

Maddow and MSNBC put a target on Plaintiff's back. Plaintiff feared for his own safety, the safety of his staff (Congressional and HPSCI), and the safety of his family. The false implication created by Maddow and MSNBC that Plaintiff was a Russian agent and traitor to his country easily could have caused a deranged person (already triggered by the House Democrats' relentless partisan attacks) to injure or kill Plaintiff, his family or his staff. Plaintiff's fears intensified because this was Rachel Maddow – MSNBC's highest



rated anchor – who was advising her viewers and MSNBC’s subscribers that Plaintiff was a criminal who needed to be dealt with.

3. All Documents sufficient to show Your itinerary and activities for every day from March 18, 2020 to August 3, 2021.

**RESPONSE:** Objection – relevance; overbroad and not proportional to the needs of the case.

4. Documents sufficient to show the terms of Your employment and compensation (salaried or contingent, cash or equity) or indemnification of any kind with the Trump Media & Technology Group (“TMTG”). This includes, but is not limited to, Your employment agreement, participation in any bonus plan, any stock option plans, and convertible notes.

**RESPONSE:** Plaintiff will produce a “Counsel’s Eyes Only” copy of his employment agreement with TMTG subject to the terms of the Stipulated Protective Order.

5. Documents sufficient to show any additional income that You have received outside of Your role as CEO since January 1, 2022.

**RESPONSE:** None.

6. Any state and federal income tax returns You have filed from the 2019 tax year to the present.

**RESPONSE:** Plaintiff will produce a “Counsel’s Eyes Only” copy of his federal tax returns subject to the terms of the Stipulated Protective Order.

7. Documents sufficient to show the date and amount of monetary damages You have sought for any claim of reputational harm that You have made over the past five years (including claims associated with any other defamation lawsuits You have filed).

**RESPONSE:** Plaintiff will produce copies of complaints he has filed in other defamation lawsuits in which he has sought monetary damages for claims of reputational harm.

8. Any answers You have given to interrogatories in any defamation action in which You are the plaintiff, including but not limited to, the civil actions captioned *Nunes v. Lizza*, 5:19-cv-04064-CJW (N.D. Iowa) and *Nunes v. Washington Post Co.*, 1:21-cv-00506-CJN (D.D.C.), that concern (a) Your reputation, (b) harm to Your reputation, or (c) damages.

**RESPONSE:** Plaintiff will produce “Counsel’s Eyes Only” copies of all such interrogatory answers subject to the terms of the Stipulated Protective Order.

9. Any transcripts of or exhibits to any deposition or testimony of You that concern (a) Your reputation, (b) harm to Your reputation, or (c) damages, and that was given in any defamation action in which You are the plaintiff, including but not limited to, the civil actions captioned *Nunes v. Lizza*, 5:19-cv-04064-CJW (N.D. Iowa) and *Nunes v. Washington Post Co.*, 1:21-cv-00506-CJN (D.D.C.).

**RESPONSE:** Plaintiff will produce “Counsel’s Eyes Only” copies of the transcripts subject to the terms of the Stipulated Protective Order, and upon payment/reimbursement of the cost of the transcript.

10. All documents You have produced in any defamation action relating to Your reputation, including documents relating to any alleged harm to Your reputation or to any computation of damages.

**RESPONSE:** Objection – relevance; overbroad and not proportional to the needs of the case.

11. All documents, transcripts, and exhibits produced or ordered to be produced by You or by TMTG in *Lizza v. Trump Media & Technology Group Corp.*, 9:22-mc-81070 (S.D. Fla.), including specifically documents related to Your recruitment and hiring for the position of Chief Executive Officer of TMTG.

**RESPONSE:** Plaintiff will produce “Counsel’s Eyes Only” copies of the documents produced by TMTG.

12. All documents relating to ethics complaints concerning Your recusal from the Russia investigation on or about April 6, 2017, including, but not limited to, the March 28, 2017 complaint filed by MoveOn.org, requesting an investigation into whether You were “violating the Espionage Act and the Rules of the House by disclosing classified information without the authorization required by House Rules or any other proper authorization,” and the March 27, 2017 and April 4, 2017 complaints filed by Democracy 21 and Citizens for Responsibility and Ethics in Washington, requesting an investigation into whether Your public Statements “revealed any classified information in violation of House ethics rules.”

**RESPONSE:** Objection – relevance; overbroad and not proportional to the needs of the case.

13. All communications between or among You and any staff member of Your Congressional Office identified in PX005-PX145 since March 18, 2021 in which You or Your representatives instructed those Persons to retain documents pertaining to this Lawsuit.

**RESPONSE:** Plaintiff has no documents. Plaintiff will produce all responsive documents retained by any staff member pursuant to instructions from Plaintiff.

14. All communications between or among You and any staff member of the House Permanent Select Committee on Intelligence identified in PX001-PX004 since March 18, 2021 in which You or Your representatives instructed those Persons to retain documents pertaining to this Lawsuit.

**RESPONSE:** Plaintiff has no documents. Plaintiff will produce any responsive documents retained by any staff member pursuant to instructions from Plaintiff.

15. All communications between or among You and any Members of the House Permanent Select Committee on Intelligence serving during the 116<sup>th</sup> or 117<sup>th</sup> Congresses (i.e., 2019-2022) in which You or Your representatives instructed those Persons to retain documents pertaining to this Lawsuit.

**RESPONSE:** Plaintiff has no documents.

16. All metadata as set forth in Instruction 8 herein for the documents produced in response to Defendant's First Set of Requests of Production of Documents and for all documents produced in response to these Requests.

**RESPONSE:** Plaintiff has no metadata.

**Reservation of Rights**

Plaintiff reserves the right to amend and/or supplement his Objections, Answers and Responses to Defendant's Discovery Requests.

DATED: May 1, 2023

DEVIN G. NUNES

By: /s/ Steven S. Biss

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*Counsel for the Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that on May 1, 2023 a copy of the foregoing was served electronically in PDF on counsel for the Defendant.

By: /s/ Steven S. Biss

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